THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.3423 of 2004

Dated:24.08.2006

Between:

M/s.Variety Polysters Ltd.,

…Petitioners

and

The Govt.of A.P., and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.3423 of 2004

ORDER:

M/s.Leela Textiles Limited situated at Thimmasamudram Village, K.V.B.Puram Mandal, Chittoor District, was declared as Sick Industrial Company by the Board of Industrial and Financial Reconstruction (BIFR) under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985. BIFR also referred the matter to the High Court recommending winding up. Accordingly, in R.C.C.No.5 of 2000, this Court ordered winding up of the Company by order dated 17.10.2000, and the Official Liquidator (OL) of the High Court of Andhra Pradesh was directed to sell the properties of M/s.Leela Textiles. The OL held public auction on 29.11.2002. The petitioner herein, namely M/s.Variety Polysters Limited, became the highest bidder for a total consideration of Rs.80,00,000/- for land and building. The High Court confirmed the same and directed the OL to execute necessary sale deed. Accordingly, the sale deed dated 23.01.2004 was executed showing the auction sale value at Rs.80,00,000/- for the land admeasuring Acs.43.14 cents and A.C.C.Zinc Sheet roofing building of 98,450.80 square feet situated at Thimmasamudram Village. The petitioner was required to pay a sum of Rs.9,20,040/-. However, as

per the notification vide G.O.Ms.No.624, dated 24.05.2003, the petitioner company, being entrepreneur acquiring the land and building of a Sick Company, is entitled for 50% reduction. Therefore, the petitioner paid Rs.4,60,020/- and also another sum or Rs.20,000/- towards registration charges. However, the second respondent herein addressed a communication dated 16.02.2004 to the petitioner advising them to pay a total stamp duty of Rs.21,65,450/- and asked to pay the deficit stamp duty of Rs.17,05,430/- (after giving credit to the amount already paid). Aggrieved by the said memo, the present Writ Petition is filed. Though interlocutory matters are listed, the matter is heard finally, and is being disposed of by this order.

Learned Counsel for the petitioner placed strong reliance on the decision of this Court in **G.Usha Rani v. Joint Sub-Registrar-I**[1] wherein placing reliance on two earlier decisions of this Court in **M.Venkata Ramana v. Collector & District Registrar**[2] and **Bharatia Pulverisers Pvt.Ltd. v. Sub-Registrar of Assurances**[3] it was held that the Registration Authorities cannot determine the market value and that they should accept the sale value mentioned in the sale deed whenever the sale is pursuant to public auction by the Official Receiver. The learned Assistant Government Pleader for Revenue (General) brought to the notice of this Court, the notifications issued by the Government of Andhra Pradesh in exercise of their powers under Section 9(1)(a) of the Indian Stamp Act, 1899, vide G.O.Ms.No.2046, dated 28.11.2005. But the said notification thereat is irrelevant and reads as under.

PAYMENT OF STAMP DUTY IN RESPECT OF SALE OF INDUSTRIAL UNITS AND PLANT AND MACHINERY

(G.O.Ms.No.2046, Revenue (Registration.I) 28th November, 2005)

NOTIFICATION-I

In exercise of the powers conferred by clause (a) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899, (Central Act II of 1899), the Governor of Andhra Pradesh hereby reduces the Stamp Duty on the sale Deeds of land and buildings by limiting the stamp duty to the amount arrived at on the auction amount declared in the sale deeds of land and buildings in cases where the sales of industrial units were made through auction by the Official Liquidator appointed by the High Court/Recovery Officer appointed by the Debt Recovery Tribunal and the units disposed off by Implementation Secretariat of the Public Enterprises

Department.

The above notification shall come into force with effect from 1st December, 2005.

Even as per the above notification whenever a sale of Industrial Unit is made through auction by the OL appointed by the High Court, the value of the land and buildings shall be limited for the purpose of stamp duty to the amount arrived at on the auction amount declared in the sale deed. In this case, the petitioner purchased the land and building of Sick Company, which was brought to auction conducted by the OL, and therefore, the sale value as mentioned in the sale deed alone is the basis for determining the stamp duty and registration charges. The impugned letter of the second respondent, therefore, is unsustainable.

The Writ Petition is accordingly allowed. No costs.

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(V.V.S.RAO, J)

24.08.2006
vs

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[1] 1998(6) ALT 604

[2] 1998(4) ALT 626

[3] 1997(6) ALT 801